IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE V.V.S.RAO
WRIT PETITION NO : 15772 of 2004

Between:
M/s B. Mansukhlal & Company, 22-2-59, Cloth Bazaar, Guntur - 522 003,
Guntur District, rep. by its Authorised Signatory Sri Vinaykant M. Chavda S/o Mansukhlal, aged 45 years,Business, R/o Ring Road, Guntur, Guntur District.

..... PETITIONER

AND

The Regional Provident Fund Commissioner-II, Sub-Regional Office, 3rd Lane, Krishna Nagar, Guntur - 522 007, Guntur District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus the action of the respondent in implementing the order issued in the proceedings No. AP/GT/16771/COMP-1/G.II/2004/95 dated 30-4-2004 by adopting coercive methods when the appeal is pending against the same orders, as arbitrary, illegal and unconstitutional and consequently direct the respondent not to take any coercive steps till the appeal filed by the petitioner firm is decided.

Counsel for the Petitioner: MR.RAMA RAO GANTA

Counsel for the Respondent: MR.R.N.REDDY, Standing Counsel for E.P.F.Organisation

The Court made the following :

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PEITION NO.15772 OF 2004

ORDER:

The petitioner is an establishment covered by Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (the Act, for brevity). Alleging that the petitioner is not prompt in paying Provident Fund arrears (PF arrears), action was initiated under Section 7-C of the Act and by order dated 30.04.2004, the respondent herein directed the petitioner to remit an amount of Rs.4,59,037/- (Rupees four lakh fifty nine thousand and thirty seven only) within ten days. The petitioner was also informed that if the amount is not paid within the specified time, the petitioner is liable to pay damages under Section 14-B of the Act. Aggrieved by the same, the petitioner filed appeal before the Provident Funds Appellate Tribunal under Section 7-I of the Act on 24.08.2004. But still the petitioner challenges this order apprehending that the respondent might initiate any coercive action when the appeal is pending, as illegal and arbitrary.

It is not denied that the petitioner availed appeal under Section 7-I of the Act. Therefore, as held by the Supreme Court in **BMRDA v Gokak Patel Volkart**[1], when a person avails statutory remedy by way of appeal, writ petition would not lie. It shall, however, be open to the petitioner to approach appellate authority or the respondent himself for postponing further action for realising the PF arrears. In this writ petition, no relief can be granted, especially when the respondent is proceeding in accordance with the provisions of Section 8-B of the Act.

The writ petition, with the above observations, is dismissed.

(V.V.S.RAO,J)

02.09.2004.
pln

To

1. The Regional Provident Fund Commissioner-II, Sub-Regional Officer, 3rd Lane, Krishna Nagar, Guntur-522007. Guntur Dist.
2. 2 CD copies.

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[1] (1995) 1 SCC 642